

HAITI

a. SUMMARY OF CLAIMS

| TYPE | DATE | SOURCE | LIMITS | NOTES |
|--|--------|---------------------------------|----------|--|
| I. TERRITORIAL SEA | 1894 | Practice | 6nm | |
| | Apr 72 | Decree | 12nm | Coordinates given for an irregular polygon that, in some instances, lies farther than 12nm from coast. |
| | Jun 77 | Presidential Declaration No. 37 | 12nm | |
| | Apr 77 | Presidential Declaration No. 38 | 12nm | |
| II. ARCHIPELAGIC, STRAIGHT BASELINES, & HISTORIC CLAIMS | Apr 72 | Decree | | Straight baselines inferred from published coordinates of territorial sea limits; closed Gulf of Gonave. This claim is not recognized by the U.S. U.S. protested claim in 1973 and 1989 and conducted operational assertions in 1986, 1987 and 1991. |
| | | | | |
| III. CONTIGUOUS ZONE | Apr 72 | Decree | 15nm | |
| | Jun 77 | Decree No. 38 | 24nm | Claim includes security jurisdiction. This claim is not recognized by the U.S. U.S. protested claim in 1989. |
| IV. CONTINENTAL SHELF | Dec 59 | Decree | 1958 DEF | |
| | Apr 72 | Decree | | Claimed "full sovereign rights over the continental shelf." |
| | Jun 77 | Decree No. 38 | | |
| V. FISHING ZONE/EEZ | Apr 72 | Decree | 15nm | Fishery zone. |
| | Jun 77 | Presidential Declaration No. 37 | 200nm | EEZ. Claimed full sovereignty over EEZ (incl. airspace). |
| | Jun 77 | Presidential Declaration No. 38 | 200nm | EEZ. Deleted claim to full sovereignty. Claimed exclusive jurisdiction over artificial islands/structures and over scientific research; appeared to claim right to exercise within EEZ any control deemed "necessary" to ensure navigation safety and to prevent violations of health, fiscal, customs, and immigration laws and to prevent pollution. |

| TYPE | DATE | SOURCE | LIMITS | NOTES |
|--------------------------------|--------|--|--------|---|
| V. FISHING ZONE/EEZ (Cont.) | Feb 88 | Note Verbale from Ministry of the Interior, Decentralization, the General Police and the Civil Service | | Shipping lines, owners and operators of vessels of any tonnage are prohibited entry into ports, territorial waters and the EEZ if they are transporting wastes, refuse, residues or any other material likely to endanger the health of the country's population and to pollute the marine, air and land environment. This prohibition is not recognized by the U.S. |
| VII. MARITIME BOUNDARIES | Jan 78 | Agreement | | Maritime boundary agreement with Cuba EIF. |
| | Feb 79 | Agreement | | Maritime boundary agreement with Colombia EIF. |
| VIII. LOS CONVENTION | Dec 82 | | | Signed. |

b. DOMESTIC LEGISLATION AND REGULATIONS

1. STRAIGHT BASELINES

A. LEGISLATION. By Decree of 6 April 1972, the Government of Haiti established territorial seas limits (by reference to a map accompanying the Decree) from which a unique system of straight baselines may be inferred. The following comments explaining this system are extracted from Limits in the Seas, No. 51, "Straight Baselines: Haiti," 25 May 1973:

On April 6, 1972, the Government of Haiti issued a decree altering its claimed territorial sea and contiguous zone. Whereas no previous legislation existed concerning the breadth of the territorial sea, Haiti had consistently acknowledged a 6 mile limit since 1894. The new decree doubles the previous breadth to 12 nautical miles, measured "from the low-water line" of the coast. Moreover, Haiti, in article 5, has laid claim to an additional three-mile contiguous fisheries zone. Within this zone Haiti will also exercise all control it judges necessary to assure security of navigation, prevent infractions of its sanitary, fiscal, customs, and immigration laws, and prevent pollution and other risks that might endanger the marine environment.

A very small-scale map (c. 1:5,000,000) accompanied the decree. The map illustrates an irregular polygonal outer limit for the territorial sea, using specified coordinate pairs for turning points. The limits shown on the map have been plotted directly on the attached chart. [Due to the small scale of the Haitian map, all limits and distances discussed here are approximate.] When so plotted, the inner limit of the territorial sea (constructed from a similar polygon situated 12 nautical miles landward of the outer territorial sea limits) does not relate directly to the "low-water line" of the Haitian coast.

As a result, it would seem that the limits of the Haitian territorial sea either had to be measured from implied straight baselines or from an unexplained but equivalent baseline system. A request for clarification of the system used for establishing the territorial sea limits was sent to the Government of Haiti which noted that the lines were drawn from droites paralleles from "the points on the coast most-advanced into the sea." Of interest, the Haitian reply also stated that the waters between the polygon A-K and the coast were territorial waters. Had a true system of straight baselines been established, the territorial waters would have extended from the polygon to the baseline segments; internal waters would be situated between the segments and the low-water coastline. Consequently, the basis for the system is not clear. If a straight baseline system has not been utilized, then the limits of the territorial water should be everywhere 12 nautical miles from the low-water baseline of the Haitian coast as expressed in Article 1. An examination of the chart shows that this condition does not prevail.

It is also noted that the decreed limits of the territorial sea adjacent to the Dominican Republic in the north and the south represent, in effect, unilaterally declared territorial sea boundaries. The contiguous zone, moreover, would overlap the Dominican territorial sea in many places.

B. ANALYSIS. It is assumed that a series of "straight baselines" have been drawn to form the basis of the polygonal territorial sea limits. The following analysis implies these baseline segments and they have been drawn on the attached chart. Positional discrepancies, as noted, are discussed in detail below:

| <u>LINE</u> | <u>COMMENTS</u> |
|-------------|--|
| A - B | Position A plots on the U.S. oceanographic chart (NO) approximately 1.25 nautical miles northwest of the terminus of the Dominican Republic - Haiti boundary. Line A - B passes about 0.5 nautical miles from the Dominican Manzanillo Point and 0.9 nautical miles from Arenas Cay in the Seven Brothers group. At this point, line A - B is approximately 2.8 and 8.25 nautical miles, respectively, from the nearest points on the low-water line of Haiti. The points, by definition, would lie 12 nautical miles from the implied Haitian straight baseline. The implied baseline, from which A - B might be measured, would extend about 6.6 nautical miles from Caracol Point northwestward to an imaginary and seemingly arbitrary point in the sea, 4.15 nautical miles from the low-water line of Haiti. |
| B - C | The implied baseline for this segment extends approximately 43.6 nautical miles from the previously-described point to a peak on west-central Ile de la Tortue (Tortuga Island). The segment illustrates the problems of positioning. By the description, the northern point of Tortuga probably is intended to be the terminal basepoint of the straight baseline segment. However, from the inaccuracies of the small-scale map, the position has been displaced approximately 2.4 nautical miles to the south. As described, Point C on the polygon lies less than 10 nautical miles from the low-water line of Tortuga. The territorial sea breadth does not attain the requisite 12 nautical miles in this area, although it is much greater elsewhere. (Note: If the territorial sea were indeed measured from straight baselines, the line near the intersectional points, e.g., B, C, D, etc., would be arcs and not angles of straight lines. The angular product is, perhaps, what is meant by <u>droites paralleles</u> .) The greatest breadth of the territorial sea, if straight baselines have not been employed, would be 17 nautical miles. |
| C - D | The length of the implied straight baselines would be approximately 10.5 nautical miles extending from the previously-defined point southwestward. Point D, which most likely should be Pointe Ouest on Tortuga, plots in the Canal de la Tortue, 3.3 nautical miles south and west of the point. The minimum breadth of the (plotted) territorial sea would be 9.5 nautical miles. |
| D - E | The implied baseline extends 26.25 nautical miles from the previously defined point to a point near Cap San Nicolas, south of Cap du Mole. Since the latter cape extends seaward of the plotted point, it is safe to assume that Cap du Mole is the terminal point, i.e., although the coordinates dispute it, the intent probably was to join Pointe Ouest with Cap du Mole. The minimum territorial sea (as plotted) measures 10.1 nautical miles; the maximum, 13.5. |
| E - F | This segment closes the Golfe de la Gonave, a major indentation of the west coast (c. 95 nautical miles by 85 nautical miles). The implied baseline measures approximately 89 nautical miles. The terminal point (F) plots on the north shore of the southern peninsula to the east of Cap Dame-Marie. The latter is probably the selected closing point. The length of the implied line closing Gonave and the amount of water contained within the line would be excessive, by normal state practices for straight baselines. The length also exceeds the permitted closing for a bay, i.e., 24 nautical miles. The midpoint of the Line E - F lies approximately 40 nautical miles from the low-water line of the Haitian coast. |
| F - G | From the previously described point, the implied baseline extends 12.1 nautical miles south-southwestward to a point in the sea about 2 nautical miles north of Cap Fanchon. The intended turning point could be this cape or Cap Irois immediately to the south. The (plotted) territorial sea measures, at a minimum, 10.6 nautical miles from the implied baseline; the maximum, 12 nautical miles. |
| G - H | Extending southeastward, this segment presumably connects Cap Fanchon (or Irois) with Pte. Aigrette, the southwestern cape of Haiti. The plotted position, however, lies 2.70 nautical miles east-southeast of that point. The (plotted) minimum territorial sea thus becomes approximately 9.5 nautical miles. Point H, however, is situated approximately 14.25 nautical miles from the Haitian low-water baseline. |
| H - I | The implied straight baseline joins the previously described point to Pt. Gravois. The plotted position, however, lies approximately 9.75 nautical miles eastward of that point. The implied straight baseline measures 38.3 nautical miles in length. The maximum breadth of the territorial sea claim becomes 16.5 nautical miles; the minimum, 10.0. |
| I - J | The implied baseline extends due eastward at the same latitude as the previously described position to a point in the open sea (17°59'N; 72°05'W.) approximately 14.2 nautical miles from the low-water baseline. The |

maximum breadth of the resulting territorial sea measures about 26 nautical miles with an average width of 20 nautical miles.

J - K

The plotted position of point "K" lies onshore about 0.9 nautical miles from the coastal terminus of the boundary (on large-scale charts). The implied straight baseline joins the previously described point with an insignificant cape on the mainland. As noted above, the "contiguous" zone would extend beyond the territorial sea of Haiti to overlap, in part, the claimed Dominican Republic sea. The "territorial sea boundary," which in effect line J - K represents, is a unilaterally established limit.

SUMMARY

The basic system utilized in the establishment of the limits of the Haitian territorial sea is obscure. While the law calls for measurement of the territorial sea from the low-water baseline of the coast, this system has not been utilized. Furthermore, the turning points were plotted on a very small-scale map and not from a reasonably-scaled nautical chart. As a result, the problem of interpretation is compounded by positional difficulties. The Haitian Government described the system as utilizing droites paralleles from the most seaward points of the Haitian coast. The government has basically drawn a "system of straight baselines" in a unique manner. The Convention on the Territorial Sea and the Contiguous Zone, for example, states that a system of straight baselines may be utilized for deeply-indented coasts or coasts fringed with islands. The Haitian coastline in places contains islands. These, however, have not been used as the basepoints with the exception of Tortuga. Gonave represents an indentation of the coast but the scale of the resulting system dwarfs the physical features upon which the system has been developed. The breadth of the territorial sea (as plotted) measures not 12 nautical miles as decreed, but from less than 12 to more than 40 nautical miles.